HOUSE . .

. . No. 4407

The Commonwealth of Alassachusetts

By Mr. Murphy of Burlington, for the committee on Ways and Means, on House, No. 1130, a Bill relative to a waste water management district in the town of Harvard (House, No. 4407). December 23, 2009:
An Act relative to a wastewater management district in the town of Harvard.
FOR THE COMMITTEE:

NAME:	DISTRICT/ADDRESS:
Charles Murphy	21st Middlesex

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

An Act relative to a wastewater management district in the town of Harvard.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The purpose of this act is to ensure and facilitate the connection of 1 buildings and structures located in the town of Harvard wastewater management service area to 2 3 the common wastewater management system to be constructed and installed therein; reduce and 4 prevent contamination and pollution of drinking water, groundwater and other natural resources 5 in said service area; provide for an efficient and financially self-sustaining wastewater 6 management system in said areas; facilitate the implementation of Title V of the State 7 Environmental Code, 310 CMR 15.000, in order to protect and improve groundwater supplying 8 drinking water; protect persons residing in said service area from the risks and hazards associated 9 with such contamination and pollution, all to the public benefit and good and to the extent and 10 manner provided herein. 11 SECTION 2. As used in this act, the following words shall, unless the context clearly requires 12 otherwise, have the following meanings: 13 "Board of Health", the board of health of the town of Harvard. 14 "Commission" the Harvard wastewater management district commission established by 15 section 3. 16 "Costs", all costs and expenses of the planning, design, acquisition, construction, installation, 17 reconstruction, alteration, extension, improvement or enlargement of the wastewater management system including, without limitation, costs of labor, materials, professional 18 services, consulting services, equipment, grinder and ejector pumps, materials, supplies, 19 machinery, structures, all rights in real and personal property, costs of demolitions or relocations, 20

costs of removal or relocations of public utilities, financing charges and expenses and debt

service costs relative to the wastewater management system.

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"Facility", shall mean a facility as defined in 310 CMR 15.002 of the State Environmental Code as of May 1, 2009.

"Revenues", all revenues, rates, fees, charges, rents, proceeds of loans, grant funds, insurance proceeds, investment earnings and other receipts derived from the operation of the wastewater management system.

"Harvard wastewater management service area", shall mean that portion of the town of Harvard shown on a plan entitled "Proposed Sewer Service Plan, Town of Harvard, Mass. prepared for Town of Harvard", dated 11/19/2008 and revised on 3/30/2009 prepared by Norfolk Ram in Association with Weston & Sampson and filed in the office of the town clerk of the town of Harvard or as such service area may be modified by majority vote of the town at a town meeting, upon the recommendation of the commission.

"Town", the town of Harvard.

"Wastewater management system", the wastewater collection, conveyance, treatment and disposal systems serving more than 1 facility to be constructed or to be in the possession of and under the jurisdiction and control of the commission, including all components thereof.

"Wastewater", greywater and blackwater from domestic, municipal and other governmental and institutional uses,; provided, however, that wastewater does not include industrial waste, as defined in 310 CMR 15.002.

SECTION 3. There is hereby established in the town of Harvard a commission to be known as the Harvard wastewater management district commission, which shall have the rights, powers and duties specified in this act and the General Laws relating to town boards, and shall be subject to such instructions as the town may from time to time impose by vote of its town meeting.

Except as otherwise provided in this act, said commission shall consist of 3 members, each of whom shall be a resident of the town, at least 1 of whom shall reside in the Harvard wastewater management service area. The members shall be appointed by the board of selectmen of the town within 60 days after the effective date of this act, provided that the design of the wastewater management system to be constructed in said service area has been approved by vote of the town at a town meeting. Of the members first appointed, 1 shall serve in office for a term expiring on June thirtieth in the year following the effective date of this act, and 1 for a term expiring on June thirtieth in the second year following the effective date of this act, and 1 for a term expiring on June thirtieth in the third year following the effective date of this act. Thereafter, the board of selectmen shall appoint successors for a term of 3 years, or in the case of an appointment to fill a vacancy, for the unexpired term. Members of the commission shall be eligible for reappointment and may be removed at any time for cause by the board of selectmen. Two members of the commission shall constitute a quorum and the affirmative vote of 2 members shall be necessary

- for any action taken by vote of the commission. No vacancy in the membership of the
- 59 commission shall impair the right of a quorum to exercise the powers of the commission.
- The commission shall annually elect 1 of its members as chair. The members shall serve
- without compensation. The members of the commission shall not be municipal employees
- within the meaning of paragraph (g) of section 1 of chapter 268A of the General Laws.
- The commission shall have all the rights, authority and powers necessary or convenient to
- carry out and effectuate this act, including, but without limiting the generality of the foregoing,
- 65 the rights, authority and power to:
- 66 (a) to hire, employ or engage the services of engineers, land surveyors, consultants and such
- other experts as it deems necessary and determine their duties;
- (b) to construct, install, improve, extend, enlarge, operate, maintain, repair and reconstruct the
- 69 wastewater management system, subject to the limitations set forth in section 10;
- 70 (c) to hold, manage, maintain, control and regulate the use of town-owned property, real or
- personal, tangible or intangible, or interests therein, for the purposes of this act, consistent with
- all requirements of the General Laws;
- 73 (d) to adopt rules and regulations relative to the use of and connection to the wastewater
- management system including the types of wastewater that can be discharged into the system,
- 75 subject to the approval of the board of selectmen; provided further, that the commission may, by
- 76 rule or regulation, prescribe civil penalties in accordance with section 10 of chapter 83 of the
- General Laws for the violation of any such rule or regulation of the commission; provided,
- however, that prior to adopting or amending such rules and regulations, the commission shall
- 79 provide notice of a public hearing including the time, date and place of said hearing, which shall
- be placed in a newspaper of general circulation in the town, once in each of 2 successive weeks,
- with the first such publication being not less than 14 days before the hearing; provided that such
- rules and regulations adopted or amended and approved shall be filed in the office of the town
- clerk whereupon they shall take effect; and provided further, that the commission at said public
- hearing may also assess fines not exceeding \$300 for each violation of its rules and regulations in
- accordance with section 21 of chapter 40 of the General Laws;
- 86 (e) to apply for, receive, accept, administer, expend and comply with the conditions of any grant,
- gift, loan, donation or appropriation of any money or property in aid of the purposes of this act;
- 88 (f) to sell, exchange, transfer or otherwise dispose of any surplus personal property, tangible or
- 89 intangible, consistent with all requirements of the General Laws;
- 90 (g) to contract for and procure wastewater management, treatment and disposal from any person,
- 91 private or public corporation or government agency or entity, consistent with the General Laws,
- when necessary or convenient for the operation of the wastewater management system;

- 93 (h) to use and expend monies borrowed or appropriated by the town for the purposes of this act;
- 94 (i) to make contracts of every name and nature and to execute and deliver all instruments
- 95 necessary or convenient for carrying out its duties;
- 96 (j) to create an overall wastewater management policy and plan for the Harvard wastewater
- 97 management service area, which shall be consistent with the town's master plan and open space
- 98 and recreation plan;

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- 99 (k) to fix, revise, charge, collect and abate fees, rates, assessments, delinquency charges and
- other charges for wastewater collection, treatment and disposal services, facilities and
- 101 commodities for facilities connected to the wastewater management system;
 - (i) subject to the provisions of section 4, such fees, rates, rents, assessments, delinquency charges and other charges of general application shall be adopted and revised by the commission at least annually in accordance with procedures to be established by the commission for assuring that interested persons are afforded notice and an opportunity to be heard. The commission shall hold at least 1 public hearing on its schedule of fees, rates and charges or any revision thereof prior to adoption, notice of which shall be delivered to the board of selectmen of the town and be published in a newspaper of substantial circulation in the town at least 1 month in advance of the hearing. No later than the date of such publication, the commission shall make available to the public and deliver to said selectmen and the finance committee of the town the proposed schedule of fees, rates and charges. The commission may combine its fees, rates and other charges for wastewater services provided by it in a single schedule of charges. Fees, rates, rents, assessments, abatements and other charges established by the commission shall not be subject to supervision or regulation by any department, division, commission, board, bureau, or agency of the commonwealth. Such schedule shall provide for the metering, monitoring and other measuring of, and charging for, wastewater management services provided by the commission to consumers of such services in said service area; provided, that no betterment or special assessment shall be made by the commission under chapters 80 or 83 of the General Laws or any other provision of law against property owned by the town, the commonwealth, any political subdivisions thereof or the federal government or any agencies thereof. In lieu of the town paying a betterment assessment or special assessment for wastewater management services provided by the commission to the town, the town shall reduce the amount it receives from its General Fund through advances or loans or the town shall make payments or transfer from the town's General Fund an amount equal to the betterment or special assessment.
 - (ii) subject to the provisions of section 4, the fees, rates, rents, assessments and other charges so established by the commission shall be set such that the aggregate amount of revenue collected is sufficient to: (1) to pay the current expenses of the commission; (2) to pay the principal of, premium, if any, and interest on bonds or other evidences of indebtedness issued by the town for the commission as the same become due and payable; (3) to create and maintain

- such reasonable reserves as may be reasonably required by any trust agreement or resolution
- securing bonds; (4) to provide funds for paying the cost of all necessary repairs, replacements
- and renewals of the wastewater management system; and (5) to pay or provide for any amounts
- which the commission may be obligated to pay or provide for by law or contract including any
- resolution or contract with or for the benefit of the holders of bonds issued for the commission.
- (1) to exercise the powers and privileges of, and to be subject to limitations upon towns and
- cities provided by the provisions of sections 1 to 24, inclusive, and sections 27 to 29, inclusive,
- of chapter 83 of the General Laws, insofar as such provisions may be applicable and are
- consistent with the provisions of this act; and
- (m) to do all things as may be necessary for or incident to carrying out the foregoing powers or
- the powers expressly granted or necessarily implied in this act; provided, however, that nothing
- in this act shall impose any duty on the commission to maintain groundwater levels within or
- without the boundaries of the town.
- SECTION 4. The town is hereby authorized to establish an Enterprise Fund in accordance with
- the provisions of section 53F½ of chapter 44 of the General Laws for the operation of the
- wastewater management system. On or before 1 year after the effective date of this act and
- annually thereafter, the commission shall prepare a proposed capital improvement program for
- the next 3 succeeding fiscal years of said commission and shall adopt an operating and capital
- improvement budget for the next succeeding fiscal year. Such program and budgets shall include
- a description of the operations and projects proposed to be undertaken during such periods, the
- costs proposed to be incurred in connection with such operations and projects, the method of
- financing such costs and an estimate of the effect, if any, that such costs will have on the current
- or projected fees, rates, assessments and other charges of the commission. The program and
- budget shall be annually prepared and the budget shall be presented for approval to the town
- meeting. The commission shall submit its operating capital budget to the board of selectmen and
- 155 finance committee of the town for review and recommendation and all funds expended by the
- 156 commission shall be subject to appropriation by town meeting. The Commission shall hold at
- least 1 public hearing on the proposed capital improvement program, capital budget and
- operating budget prior to adoption, which hearing may be combined with a hearing provided in
- clause (i) of paragraph (k) of section 3, notice of which shall be delivered to said board of
- selectmen and be published in a newspaper of substantial circulation in the town at least 1 month
- in advance of the hearing. No later than the date of such publication, the commission shall make
- available to the public and deliver to the board of selectmen copies of the proposed program and
- budgets.
- SECTION 5. The town may incur debt for development of the wastewater management system
- in accordance with chapter 44 of the General Laws. Notwithstanding the provision of section 17
- of said chapter 44 to the contrary, the town may make temporary loans for a period of not more
- than 5 years in anticipation of the money to be derived from the sale of bonds for the

- 168 construction and installation of the wastewater management system in the Harvard wastewater
- management service area. The principal of, premium, if any, and interest on all notes and bonds
- issued by the town on behalf of the commission, unless otherwise provided by the town, shall be
- payable solely from the revenues derived from the wastewater management system, but shall be
- general obligations of the town for payment of which the full faith and credit of the town shall be
- 173 pledged.
- SECTION 6. The commission shall have the benefit, without further acceptance by the town of
- section 13B of chapter 80 of the General Laws and sections 16A, 16B and 16E of chapter 83 of
- the General Laws. Applications for abatements in accordance with section 16E of said chapter 83
- shall be made to the commission within 30 days after the date of such demand.
- SECTION 7. Notwithstanding the provisions of section 13 of chapter 80 of the General Laws to
- the contrary, (a) the board of assessors of the town may apportion all betterment assessments or
- unpaid balances thereof relative to the wastewater management system in the Harvard
- wastewater management service area into equal portions of up to 30 to be paid annually for a
- period of up to 30 years after such assessments first appear on the affected landowner's real
- estate tax bill; and (b) betterment assessments made by the commission shall, at the election of
- the commission, bear interest at 1 rate of up to 5 per cent per annum or, at a rate of up to 5 per
- cent above the rate of interest chargeable to the town for the betterment project to which the
- assessments relate, from the thirtieth day after betterment assessments have been committed to
- the town collector.
- SECTION 8. (a) Notwithstanding the provisions of section 3 of chapter 83 of the General Laws,
- the commission shall not be required to connect any home, facility or lot to the wastewater
- management system, except as set forth in paragraph (b). The commission shall not permit the
- connection of: (i) a new facility; (ii) a facility that has been reconstructed resulting in an
- increase of the gross floor area or in the number of bedrooms; or (iii) a facility that has
- undergone a change in use to the wastewater management system or permit an increase in design
- flow into the wastewater management system for a facility in existence on May 1, 2009, if that
- new or changed facility could not have been constructed with a wastewater disposal system or
- septic system which would comply with Title V of the State Environmental Code, 310 CMR
- 197 15.000, or other applicable regulations of the Massachusetts department of environmental
- protection or if the increase in design flow could not have been permitted in the absence of a
- connection to the wastewater management system, unless the commission, with the approval of
- 200 the board of selectmen, determines that such a connection is necessary for the health, welfare or
- safety of the town or creates a demonstrable benefit to the town.
- 202 (b) A facility within the Harvard wastewater management service area that is served by a
- subsurface sewage disposal system which is in a state of failure as determined by the local board
- of health or the Massachusetts department of environmental protection shall be connected to the
- wastewater management system within 6 months after the owner of the facility receives written

206 notice from the commission that the wastewater management system is complete and 207 operational. (c) An owner of a facility who is aggrieved by a decision of the commission relative to such 208 owner's application to voluntarily or involuntarily connect such owner's facility to the 209 wastewater management system may appeal the commission's decision to the board of selectmen 210 211 by filing a written petition with the board of selectmen within 60 days after receipt of the 212 commission's written decision. The board of selectmen may hold a hearing on the petition and 213 consult with the local board of health, and shall render a written decision thereon affirming, modifying or reversing the commission's decision within 90 days after receipt of the petition or 214 such longer period of time as may be agreed to by the board of selectmen and the petitioner. If 215 the board of selectmen fails to act on such a petition within said period of time, the commission's 216 217 decision shall be deemed to be affirmed. 218 SECTION 9. Insofar as the provisions of this act are inconsistent with the provisions of any 219 general or special law, administrative order or regulation, or by-law, rule, regulation or code of the town, other than rules and regulations or orders of the local board of health or by-laws of the 220 221 town which require homes or facilities to be connected to the wastewater management system 222 involuntarily, the provisions of this act shall be controlling.